

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Case No. 3:11-cr-183-1

Judge Timothy S. Black

vs.

PAUL DAVID MUSGRAVE,

Defendant.

FINAL PRETRIAL ORDER

This criminal case came before the Court on January 14, 2013 at 11:00 a.m. for a Final Pretrial Conference regarding a Jury Trial set to commence on January 28, 2013 at 9:30 a.m. Assistant United States Attorneys Dwight Keller and Alex Sistla appeared for the Government, and Attorney William Terpening appeared for the Defendant.

CHARGES

18 U.S.C. §1349 – Conspiracy to Commit Wire Fraud, Bank Frauds and Submission of False Loan Applications (Count 1)

18 U.S.C. §1343 – Wire Fraud (Counts 5, 7, 9, 10, 11, 12) (2-4, 6 & 8 dismissed)

18 U.S.C. §1344 – Bank Fraud (Count 13)

18 U.S.C. §1014 – Submission of False Loan Applications (Counts 14-15)

MOTIONS

Doc. 83 – Defendant’s Motion in Limine; Doc. 86 - Gov.’s memo contra; ripe.

FINAL PRETRIAL ISSUES

The parties represent that the length of the trial shall be ten business days:

Monday, January 28 – Friday, February 8, 2013

The first day of trial shall begin with voir dire at 9:30 a.m.

The trial schedule for each subsequent day of trial may vary, as required by the Court's schedule. Generally, trial will commence at 9:00 a.m., with a mid-morning 15 minute recess at 10:30 a.m., with a one hour lunch break from noon to 1:00 p.m.; and afternoon sessions from 1:00 p.m. to 2:30 p.m., a 15 minute break from 2:30 to 2:45 p.m., followed by testimony until 4:30 or 5:00 p.m.

Counsel shall make themselves available before Court begins each day, specifically by being in the Courtroom ten minutes before trial is set to re-commence, and during lunch and recesses, in order to resolve issues, if any.

WITNESSES

The parties shall disclose their lists of witnesses by 48 hours before trial commences.

OPENINGS

The Government reserves 75 minutes for opening statement; the Defendant reserves 90 minutes for opening statement.

STIPULATIONS

At this time, the parties state that there are no stipulations yet. Should stipulations be reached, they must be in the form of a separate pleading, signed by each counsel and filed with the Court. Counsel shall prompt the Court to read the stipulations at the appropriate point during the presentation of the evidence.

JENCKS MATERIAL/BRADY MATERIAL

The Government represents that all but a limited amount of Brady materials have been disclosed and all will be disclosed by the Friday before trial. Defendant accepts receiving Brady materials and Jencks materials the day before a particular witness testifies at trial.

PROPOSED JURY INSTRUCTIONS & VERDICT FORMS

The parties' proposed Jury Instructions and Verdict forms have been provided to the Court.

JUROR QUESTIONNAIRES

The questionnaires may be collected at the Clerk's office, 7th floor, on 1/23/2013. Any issues should be directed to James Tosto at 937-512-1414.

VOIR DIRE

Each party preserves 90 minutes for attorney voir dire.

For the Government: Dwight Keller

For the Defendant: William Terpening

Questions should be directed to the entire panel with individual follow-up permitted.

CHALLENGES

Strikes:	Government: 6	Defendant: 10
Alternate(s): 2		
Alternate Strikes:	Government: 1	Defendant: 1

EXHIBITS

Exhibits shall be provided to the Court in Chambers, Room 902, on January 24, 2013, by noon.

- two sets of hard copies in 3 ring binders (the original and one copy).

Chambers' email address: black_chambers@ohsd.uscourts.gov.

IT IS SO ORDERED.

January 15, 2013

s/ Timothy S. Black
Timothy S. Black
United States District Judge